

21 SEP 1984

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax as an organization described in Section 501(c)(6) of the Internal Revenue Code.

The information submitted shows that you were organized on [REDACTED] as a non-profit Association governed by a Constitution and ByLaws. Your purposes as shown in your organizational document are:

- A. To encourage and promote a professional attitude among the members in their approach to an understanding and application of the principles underlying the science of information processing, utilizing [REDACTED] equipment and in their relations to others similarly engaged.
- B. To promote and develop education and the exchange of information among [REDACTED] users.
- C. To supply members with current information regarding both [REDACTED] hardware and compatible software.

You are a membership organization. The requirements for membership as stated in your organizational document are as shown below:

- A. Regular membership shall normally be limited to [REDACTED] users in the vicinity of [REDACTED]. A "[REDACTED] user" is any person, company, or organization owning or leasing [REDACTED] hardware. Each such user is entitled to no more than one regular membership: If held by a company or organization, the rights of regular membership can be exercised only by a person identified by and representing the company or organization.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname		[REDACTED]					
Date		7/2/84					

[REDACTED]

B. Affiliate membership is available to any person who subscribes to the purposes of the Association but who is not otherwise qualified for regular membership. Generally, this class of membership is intended for [REDACTED] personnel, persons who operate but do not own or lease [REDACTED] equipment, those whose interest lie in [REDACTED]-compatible software, and others wishing to attend Association meetings on a regular basis (including additional personnel from companies or organizations who are regular members).

Your regular membership at present consists of [REDACTED] different companies that are currently using [REDACTED] with one representative from each company. You also have [REDACTED] associate members. You are financed by membership dues.

Your primary activity is to promote and develop education and the exchange of information among [REDACTED] users and to supply members with current information regarding both [REDACTED] hardware and compatible software. You have membership meetings approximately every other month. You occasionally receive from [REDACTED] an off the record report pertaining to software that other companies may be using on [REDACTED] equipment and also software that is pre-released.

[REDACTED] is a manufacturer of computer hardware and software.

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations exempt from federal income tax under Section 501(a) and reads, in part, as follows:

"(6) Business leagues, chambers of commerce, real-estate boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and not part of the net earnings of which inures to the benefit of any private shareholder or individual."

Section 1.501(c)(6)-1 of the Income Tax Regulations provides, in part, as follows:

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of

[REDACTED]

commerce or board or trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league..."

Revenue Ruling 83-163, 1983-2 C.B., 95 states that an organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer does not qualify for exemption from federal income tax as a business league under Section 501(c)(6) of the Code.

The organization addressed in the ruling cited above was formed to develop and disseminate information pertaining to the electronic data processing equipment manufactured by a "M" company. The membership of the organization was made up of representatives of diversified businesses that own, rent or lease a computer manufactured by "M" company. Membership was also open to other businesses that did not use "M's" computers.

Rev. Rul. 67-77, 1967-1 C.B. 138, holds that an association of dealers, selling a particular make of automobile, which engaged in financing general advertising campaigns to promote the sale of that particular make is not tax exempt under Section 501(c)(6) of the Code because it is performing particular services for its members rather than promoting a line of business i.e., the automotive industry as a whole.

In Pepsi-Cola Bottlers' Association v. United States, 369 F. 2d 250 (1966), the Court held that an association of the bottlers of a particular brand of soft drink was promoting a line of business. The government disagreed, contending that the association was not promoting a line of business but a particular brand since the entire soft drink industry was the line of business. The Service has not acquiesced in this decision and its position is stated in Rev. Ruls. 58-294, 1958-1 C.B. 244, and 68-182, 1968-1 C.B. 263. The Service position was upheld in the case of National Muffler Dealers Association v. U.S., 440 U.S. 472 (1979), 1979-1 C.B. 198, wherein the Supreme Court held that an association of a particular brand name of muffler dealers does not qualify for exemption because the association is not engaged in the improvement of business conditions of a line of business.

[REDACTED]

In Revenue Ruling 68-182, published in Internal Revenue Cumulative Bulletin 1968-1, page 263, the I.R.S. refused to follow a U.S. Court of Appeals decision that an organization whose members are engaged in the bottling and sale of a single franchised soft-drink product, whose purposes and activities were directed to the more efficient production and sale of that product, qualified for exemption under Section 501(c)(6) of the Code. It is the position of the Service that organizations promoting a single brand or product within a line of business do not qualify under Section 501(c)(6).

Revenue Ruling 74-116, C.B. 1974-1, page 127, has to do with a membership organization devoted to developing and exchanging research data among users of a specific type of computer. The organization also services as liaison between users and the manufacturer of the computer. The organization conducts meetings and seminars at which operational and technical problems relating to the use of this computer are discussed. Representatives of the manufacturer are invited to attend those functions to answer questions concerning the computer's operation. The organization publishes reports of its meetings and seminars for distribution to members. Membership is limited to organizations that own, rent, or use this specific computer. Income is from membership dues and seminar fees. Expenditures are made primarily for instructional materials, publishing and other operational expenses. The subject organization had requested exempt status under Section 501(c)(3) of the Code. It was determined that the organization was not exempt because it is serving the private interest of its members.

The information you have submitted and as set forth in this letter shows that you are performing particular services for your members rather than promoting a line of business i.e. the computer software industry as a whole. Your objective is similar to the organization cited in Revenue Ruling 67-77.

Your organization is similar to the organizations described in Revenue Rulings 83-163 and 74-116 above. The organizations were denied tax exempt status because they were serving the private interests of its members. Also the organization in Revenue Ruling 83-163 was not directing its activities towards the improvement of business conditions in a Line of Business but only in a particular segment of that Line of Business. Thus, the organization activities were not directed towards the improvement of business conditions in one or more Lines of Business within the meaning of Section 1.501(c)(6)-1 of the regulations.

[REDACTED]

It is therefore concluded that you do not qualify for tax exempt status as an organization described in Section 501(c)(6) or any other 501(c) Section of the Internal Revenue Code.

In accordance with this determination you are required to file Federal income tax returns on Form 1120.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient district office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]
District Director